

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHESAPEAKE ENERGY CORPORATION,

Plaintiff,

v.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,

Defendant.
----- X

Civil Action No. 13-cv-1582 (PAE)

ECF Case

DECLARATION OF STEVEN M. BIERMAN

STEVEN M. BIERMAN hereby declares pursuant to 28 U.S.C. § 1746:

1. I am an attorney duly admitted to the Bar of the State of New York and this Court, and I am a partner of the law firm Sidley Austin LLP. I submit this declaration on behalf of defendant The Bank of New York Mellon Trust Company, N.A. ("BNY Mellon"), in support of BNY Mellon's motion in limine (the "Motion") to preclude plaintiff Chesapeake Energy Corporation ("Chesapeake") from introducing any extrinsic evidence at trial of subjective intent concerning the meaning of the Supplemental Indenture (as defined in the Motion) that was not communicated to BNY Mellon before the execution of the Supplemental Indenture.

2. Attached as Exhibit A is a true and correct copy of the Ninth Supplemental Indenture, dated February 16, 2012, between Chesapeake, the Subsidiary Guarantors party thereto, and BNY Mellon, which bears Bates stamps BG00002843-00002864.

3. Attached as Exhibit B is a true and correct copy of the Base Indenture, dated August 2, 2010, between Chesapeake Energy Corporation, the Subsidiary Guarantors party thereto and BNY Mellon, bearing Bates stamps BNYMELLON000024-000097.

4. Attached as Exhibit C is a true and correct copy of the Bank of America Merrill Lynch memorandum dated February 12, 2012 bearing Bates stamps BAML_CHK_00049-00073.

5. Attached as Exhibit D is a true and correct copy of an email from Casey McDonald (Cravath, Swaine & Moore LLP) transmitting an execution copy of the underwriting agreement dated February 13, 2012 at 6:55 p.m. bearing Bates stamp CHK00005887-CHK00005915.

6. Attached as Exhibit E is a true and correct copy of an email from Lex Maultsby (Bank of America Merrill Lynch) stating that the notes were sold and publicly traded on February 13, 2012 at 10:21 p.m. and bearing Bates stamps CHK00003874-00003875.

7. Attached as Exhibit F is a true and correct copy of an email from Brad Hutchinson to Nick Dell'Osso and Elliot Chambers, attaching the Barclays presentation slides for Chesapeake entitled "Refinancing Update February 4, 2013" bearing Bates stamps CHK00006112- CHK00006119.

8. Attached as Exhibit G is a true and correct copy of the excerpted deposition testimony of Bayard Chapin, dated April 18, 2013.

9. Attached as Exhibit H is a true and correct copy of the excerpted deposition testimony of Jennifer M. Grigsby, dated April 19, 2013.

10. Attached as Exhibit I is a true and correct copy of the excerpted deposition testimony of Elliot Chambers, dated April 15, 2013.

11. Attached as Exhibit J is a true and correct copy of the excerpted deposition testimony of Domenic J. Dell'Osso, dated April 16, 2013.

12. Attached as Exhibit K is a true and correct copy of the excerpted deposition testimony of Aubrey K. McClendon, dated April 12, 2013.

13. Attached as Exhibit L is a true and correct copy of the excerpted deposition testimony of Stephen Burns, dated April 17, 2013.

14. Attached as Exhibit M is a true and correct copy of the excerpted deposition testimony of Michael Telle, dated April 17, 2013.

15. Attached as Exhibit N is a true and correct copy of the excerpted deposition testimony of Susan Seymore, dated April 19, 2013.

16. Attached as Exhibit O is a true and correct copy of the excerpted deposition testimony of James Alexander Maultsby, dated April 17, 2013.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 22, 2013


Steven M. Bierman